



STATE OF TENNESSEE
DEPARTMENT OF EDUCATION
DIVISION OF SPECIAL EDUCATION


PHIL BREDESEN
GOVERNOR

7th FLOOR, ANDREW JOHNSON TOWER
710 JAMES ROBERTSON PARKWAY
NASHVILLE, TN 37243-0375

LANA C. SEIVERS, Ed.D.
COMMISSIONER

MEMORANDUM

TO: Directors of Schools
Supervisors of Special Education
System Testing Coordinators

FROM:  Joseph Fisher, Assistant Commissioner
Division of Special Education

SUBJECT: Exceeding the 1% Proficiency Cap Reminder for Alternate Assessment

DATE: November 30, 2006

The 1% cap, which is further clarified in the *Federal Register* (Vol. 68, No. 236), Tuesday, December 9, 2003, 34 CFR 200, limits use of alternate assessment scores for AYP purposes to 1.0 percent of all students in the grades assessed. However, according to NCLB regulations, the SEA may waive that standard if given the proper justification. In order for a LEA to request a waiver, applications must be completed prior to the calculation of AYP. If Systems anticipate exceeding the 1% cap, they must complete and submit the 1% calculation form to the Division of Special Education prior to the TCAP Assessment. Systems that do anticipate exceeding the 1% cap should verify that:

- **Each child evaluated using alternate assessment met every required point of the TCAP-Alt Participation Guidelines and**
- **Provide documentation that the school system serves a disproportionately high number of children in genuine need of alternate assessment.**

Please take note: In the near future, the federal Department of Education (ED) will randomly monitor and audit individual school systems' TCAP-Alt PA student participation eligibility. The ED will review and monitor school systems' documentation of students who participate in the TCAP-Alt, even though the number of students with proficient and above scores fall below the 1% cap. If it is determined students are inappropriately participating in the TCAP-Alt PA, an extensive and exhaustive investigation will follow. Therefore, please be diligent and make every effort to determine the most appropriate assessment as required through both NCLB and OSEP guidelines for all students with disabilities. The State has completed a review of all the *TCAP-Alt Participants Review* forms submitted by the LEAs. A letter will follow this email with recommendations regarding students who meet or do not meet participation guidelines for the Alternate Assessment. The final decision for TCAP-Alt participation is made by the IEP Team. However, if students are inappropriately assessed with the TCAP-Alt, their assessment results will be reported as Below Proficient.

Please note that waivers can only be granted if the State has not exceeded the 1% cap. If the State exceeds the 1% cap, the scores of students in LEAs that exceed the 1% cap will be randomly discounted for AYP purposes until the State is within the 1% cap.

This waiver will be reviewed for the 2006-2007 school year only. Responses should be sent to Terry Wallis at the following address:

TN Department of Education, Division of Special Education, 710 James Robertson Parkway
7th Floor, Andrew Johnson Tower, Nashville, TN 37243-0375

CC: Mary Reel, Executive Director, Assessment, Evaluation, and Research
Ann Sanders, Director, Assessment, Information, and Research
Terry Wallis, Coordinator, Assessment, TCAP-Alt PA and RTI\